

By Candace Moore

Advocating for Access to Education

Breaking the School to Prison Pipeline



Consider these two scenarios:

One snowy day, Jordan and his friends were walking home from a basketball game. On their way, they saw one of their coaches who was always “cool” and playful with students. As a joke, Jordan’s friends dared him to throw a snowball at the coach. However, when Jordan threw the snowball, the coach did not find it very funny. Instead, he became upset and reported the incident to the school’s administrators the next day.

One day, Brandon came to school really upset after learning that a close friend had just passed away. Brandon was a high school junior, played football for his school, and wanted to enroll in college on a football scholarship. As he was walking into the building to talk to his counselor, a school resources officer stopped him to ask that he show his ID. Brandon became annoyed, and flashed the ID, but refused to place the attached lanyard around his neck at the officer’s request. When the officer placed his arm in Brandon’s way, to prevent him from entering, Brandon pushed the officer’s arm and rushed past. The officer pursued Brandon and the two argued.

Both students in these scenarios could easily be referred for expulsion which, in Illinois, means that they could lose access to all public education for up to two years. In fact, it is not uncommon that either student would be arrested for the incident and charged with assault or battery. Statistics tell us that students receiving this type of punishment are more likely to be African-American males, low-income, LGBT, or a student with a disability. The reality is that schools throughout the country rely on harsh and exclusionary discipline practices that disproportionately impact some of our most vulnerable young people. Without access to education, these young people are more likely to come in contact with the criminal justice system, become victims and perpetrators of violence, or perpetuate a cycle of poverty. As a profession of advocates, lawyers need to understand and combat school discipline practices that shut the schoolhouse doors to our young people who need access to it the most.

Across the country, schools have increasingly relied on exclusionary discipline, zero-tolerance policies, and law enforcement tactics to address student conduct. This has led to a national crisis commonly referred to as The “School-to-Prison Pipeline” (“STPP”). Since the “Gun-Free School Zones Act” and “Safe and Drug Free Schools and Communities Act” of the 1990s, we have seen a marked increase in schools’ use of penal approaches to discipline. Schools widely rely on exclusionary discipline

practices, such as out-of-school suspensions and expulsions to address minor and subjective misbehaviors like “insubordination” and “willful defiance.” Schools have developed zero-tolerance policies: rules that disregard individual circumstances in favor of automatic, punitive measures. There has been a greater reliance on law enforcement and many schools began stationing school resource officers (SRO) in the school, a practice that has increased in response to school shootings across the nation. However, instead of making

schools safer, as intended, these practices often further marginalize and criminalize vulnerable students.

Contributing Factors

The STPP is created by a combination of factors that exist both within the school system and externally in the community.

Within the school system, the lack of adequate resources and support for students creates an environment that sets students up to fail. Students in need of supportive services to help them in school are often from struggling communities and attend the least resourced schools. These schools endure the highest level of neglect and destabilization, frequently dealing with constant changes in administrators and teachers, debilitating budget cuts, and threats of closure and restructuring. This makes it extremely difficult for schools to meet the basic needs of students, let alone the extraordinary needs of students dealing with conditions of extreme poverty, exposure to trauma and violence, or other familial and societal stressors. Yet, in all schools, students are expected to perform in an increasingly high pressured and competitive academic environment, regardless of whether they have meaningful social-emotional support.

Some of our most vulnerable students are ultimately excluded from the school system, either by school administrators pushing the student out of school through discipline processes, or the disconnected student choosing to drop-out of school. As may be expected, students who are not supported become increasingly disengaged in the curriculum and begin to exhibit behaviors that are disruptive to the learning environment. Unfortunately, school administrators too often react with discipline practices that are more focused on punishment than helping young people learn from their mistakes. Consider the use of out-of-school suspensions; students can be kept out of school for up to two weeks with no educational services. When those students return, little is done to reintegrate them back into the school environment.

Often there are no opportunities for students to catch up in their work or explore the root cause of their misbehavior in order to develop problem solving skills and coping mechanisms. This problem is so widespread that in the 2009-2010 school year alone, over three million children across the nation were estimated to have lost instructional “seat time” because of suspension practices. That number of children would fill every seat in every major league baseball park and every NFL stadium in America combined.

Implicit Bias

Black students are more than three-and-a-half times more likely than white students to be suspended or expelled.

An understanding of implicit bias is critical to any analysis of the racial disparities that manifest in school discipline. Implicit bias is comprised of the unconscious associations, positive or negative, that individuals develop over a lifetime of experiences based on the characteristics of people we come in contact with. According to the Kirwan Institute:

These biases, which encompass both favorable and unfavorable assessments, are activated involuntarily and without an individual’s awareness or intentional control. Residing deep in the subconscious, these biases are different from known biases that individuals may choose to conceal for the purposes of social and/or political correctness. Rather, implicit biases are not accessible through introspection. The implicit associations we harbor in our subconscious cause us to have feelings and attitudes about other people based on characteristics such as race, ethnicity, age, and appearance. These associations develop over the course of a lifetime beginning at a very early age through exposure to direct and indirect messages.

The implicit bias of key stakeholders in our schools impacts young people. For instance, an administrator may uncon-

WORKING AGAINST THE STPP IN CHICAGO

Chicago is no exception to the STPP. Our community’s youth face barriers in maintaining access to education because too many disciplinary actions are cutting them off from school.

- In the 2010-2011 school year, over 40,000 Chicago Public School (CPS) students received disciplinary measures that placed them out of school; 217 of which were expulsions. The 109,000 total disciplinary actions received in 2010 resulted in more than 300,000 lost school days.
- In the 2009-2010 school year, CPS suspended more than 30% of African American students and only 6% of white students.
- 15% of Chicago’s youth, roughly 42,000, are considered dropouts.
- Dropouts accounted for 51% of the state’s incarcerated population in 2010.

For more information on these and other statistics visit Project Nia, www.project-nia.org.

sciously perceive the actions of students of color to be more aggressive and threatening than they would the students’ white counterparts who engage in the same or similar actions. The administrator may believe that she is providing equal punishments for equivalent infractions, when in fact a deeper analysis of student records would show that certain student populations are receiving harsher discipline due to the subtle yet powerful influence of the administrator’s implicit biases. This is a hard reality to accept for any individual who believes that they are doing their job in the best interest of all children without consciously paying attention to a student’s race, gender, or sexual orientation. However, failing to acknowledge bias on a subconscious level leaves unchecked implicit biases that contribute to the destruction of the futures of young people’s futures.

Working Against the STPP in Chicago

In response to this reality, the Educational Equity Project (EEP), a project of the Chicago Lawyers’ Committee for Civil Rights Under Law, launched in 2012 with a commitment to protect and promote access to education for our young people. Through a direct services program, EEP organizes pro bono lawyers to represent young people facing expulsion from their schools. All students in Illinois facing an expulsion have the right to a hearing and

the right to bring an attorney. However, most families facing expulsions cannot afford to hire an attorney. EEP and its pro bono partners work to meet this immediate need for Chicago’s most marginalized communities who are disproportionately impacted and cut off from opportunities in school and beyond.

When EEP launched, it joined Chicago’s robust community of legal services organizations and pro bono partners working to advocate for students to remain in school. Many of these organizations and pro bono lawyers focus and specialize on the nuanced circumstances presented by specific populations. For instance, some organizations, such as Equip for Equality, serve students with disabilities who have certain rights and protections under the Individuals with Disabilities Education Act (IDEA). LAF serves students and families in poverty with a special focus on the unique needs of children in the foster care system. The Chicago Coalition for the Homeless works on various issues that impact homeless youths’ access to education. A new student-led advocacy initiative, Stand Up For Each Other- Chicago, based out of Loyola University Chicago’s School of Law, focuses on empowering parents and students to self-advocate against unfair suspension practices. Together, with several other legal organizations and law schools, Chicago’s education legal advocates have

*For more exploration of implicit bias in school discipline, read the Kirwin Institute's special report, **Implicit Racial Bias and School Discipline Disparities: Exploring the Connection**, available at <http://kirwaninstitute.osu.edu/wp-content/uploads/2014/05/ki-ib-argument-piece03.pdf>.*

formed the School Discipline Working Group, a coalition focusing on fostering collaboration, supporting positive reform efforts, maximizing resources, and collectively addressing problems that impact our shared client population.

Through partnerships with other legal organizations, pro bono partners, and community organizations, advocates are able to utilize individual direct services to guide efforts to achieve institutional systemic reform. For example, EEP advances its work through a community lawyering model, a strategy that intentionally values community-led advocacy efforts and provides supportive legal resources. This model stresses the importance of thinking beyond litigation in addressing structural issues that impact communities. As a result, EEP's partnered efforts have won sustainable change through collective action and strategic campaigns focused on building the power and conscious leadership of those most impacted.

Over the last three years, there has been major success in school discipline reform at both the local and state level. One example was achieved through a community collective that won a commitment from CPS to regularly and publicly disseminate discipline data disaggregated by school, offense, race, gender, and disability, among other categories. Additionally, this same collective was instrumental in 2014 CPS Student Code of Conduct revisions which led to a 60% reduction in out-of-school suspensions and

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Make a Difference

Interested in helping out with some of the pro bono opportunities listed in this article? For Equip for Equality, contact Olga Pribyl at olga@equip-forequality.org, for LAF, contact Kate Shank at kshank@lafchicago.org, and for Chicago Lawyers' Committee for Civil Rights Under Law, contact Jessica Schneider at jschneider@clccrul.org

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SEX TRAFFICKING SURVIVORS

The Chicago Alliance Against Sexual Exploitation and the Alliance for Women's Domestic Violence Task Force & Advocacy Committee will present a CLE on providing representation to survivors of sex trafficking on Wednesday, Oct. 28, 12:00-1:30 p.m., at Mayer Brown LLP, 71 S. Wacker Drive. Participants will be eligible to serve as pro bono attorneys with CAASE's Pro Bono Project. 1.25 IL MCLE credit anticipated. For more information, contact Rachel Johnson at rjohnson@caase.org.

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a 69% reduction in expulsions in the first semester of the 2014-2015 school year.

While these drastic reductions are an important step in combating the STPP, EEP and its pro bono and legal aid partners continue to hold CPS accountable for developing targeted strategies to reduce the racial disparities in discipline practices which have remained relatively unchanged. On the state level, EEP has also been proud to work alongside Voices of Youth in Chicago Education's youth-led efforts to pass two sweeping pieces of legislation aimed at reforming discipline practices across the state. In 2014, Senate Bill 2793, now Public Act 98-1102, mandated that all Illinois schools, including charters, report disaggregated discipline data by race and other categories and required improvement plans for schools reporting high disparities. The following year, Senate Bill 100, now Public Act 99-0456, passed into law prioritizing the creation of safe and orderly schools while seeking to address excessive use of the most severe forms of discipline.

All of this work represents powerful change that will be realized far beyond its impact on discipline matters. Through this work, impacted young people have been empowered to change their world for the better, and so were the legal aid and pro bono lawyers who stood alongside them. ■

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development makes clear that litigating the case is only part of what is needed for systemic change, and that monitoring and enforcing implementation is also critical.

While it's easy to get caught up in the "big picture" and statistics of systemic change through class action litigation, Stanley Ligas, the lead-named plaintiff in the case on behalf of people with developmental disabilities, is a good reminder of the dramatic difference these cases can make in the lives of individuals. Shortly after the court approved the decree in *Ligas* in 2011, Stanley moved into a small home in Montgomery, Illinois, where he lives with three housemates, whom he chose.

He has his own bedroom, which is filled with his favorite movies, books, electronics, and posters. His new home is located close to many family members, whom he visits regularly. He works at a nearby restaurant and is active in the community. Without the ADA, and the collaboration between the public interest organizations and the private bar, Stanley would likely still be in an institution, only dreaming about a life in the community.

Barry C. Taylor is Vice-President of Civil Rights and Systemic Litigation at Equip for Equality



The Chicago Bar Foundation
Ensuring access to justice for all

Attorneys are uniquely qualified to help "the little guy" and small businesses navigate a bewildering legal process. While pro bono may seem daunting, there are many available resources. You can partner with another attorney or discuss strategy with a mentor. The sponsoring legal aid organization will ensure that your questions are answered and that you have what you need to be successful. Providing access to justice is a team effort.



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